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DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 725

RIN 1240-AA10

Black Lung Benefits Act: Disclosure of Medical Evidence and Payment of Benefits;
Technical Amendment

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Final Rule.

SUMMARY: The Office of Workers' Compensation Programs is making a technical amendment to its regulation on disclosure of medical information to reflect the Office of Management and Budget's approval under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501-20, of the information collection requirements contained in that regulation.

DATES: This rule is effective May 26, 2016.

FOR FURTHER INFORMATION CONTACT: Michael Chance, Director, Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Suite N-3520, Washington, D.C. 20210. Telephone: 1-800-347-2502. This is a toll-free number. TTY/TDD callers may dial toll-free 1-800-877-8339 for further information.

SUPPLEMENTARY INFORMATION:

I. Background of this Rulemaking

On April 26, 2016, OWCP published a final rule, titled Black Lung Benefits Act: Disclosure of Medical Evidence and Payment of Benefits, to address certain procedural

issues that had arisen in claim adjudications and other technical issues. 81 FR 24464 (April 26, 2016). Section 725.413 requires parties to exchange certain medical information, and therefore could be considered a collection of information within the meaning of the PRA. Federal agencies may not conduct or sponsor a collection of information, and the public is not required to respond to a collection of information, unless it is approved by the Office of Management and Budget (OMB) and displays a valid OMB control number. See 5 CFR 1320.5(a), (b), 1320.6. Accordingly, the Department submitted an Information Collection Request (ICR) to OMB for approval when it proposed the rule. See ICR Reference Number 201504-1240-002. The notice of proposed rulemaking specifically invited comments regarding the information collection and notified the public of their opportunity to file comments with both OMB and the Department. 80 FR 23749 (April 29, 2015). On July 24, 2015, OMB concluded its review of the ICR by asking the Department to submit another ICR at the final rule stage after considering any public comments regarding the information collection requirements in the rule.

The Department received comments on the substance of proposed § 725.413; those comments are fully addressed in the final rule. 81 FR 24469-74. The Department received no comments about the information collection burdens. The Department submitted an ICR to OMB for the information collection in the final rule on March 16, 2016, see ICR Reference Number 201511-1240-003, and specified in the final rule that it would publish a notice in the FEDERAL REGISTER to announce the result of OMB's review. 81 FR 24477. On May 3, 2016, OMB approved the Department's information collection request under Control Number 1240-0054, thus giving effect to the information

collection requirements contained in the final rule. OMB authorization for this information collection currently expires on May 31, 2019. The Department is making this technical amendment to comply with the notice requirements of 5 CFR 1320.5(b).

II. Statutory Authority

Sections 411(b), 422(a), and 426(a) of the Black Lung Benefits Act (30 U.S.C. 921(b), 932(a), and 936(a)) authorize the Secretary of Labor to prescribe rules and regulations necessary for its administration and enforcement.

III. Rulemaking Analyses

Administrative Procedure Act

Section 553(b)(3) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3), provides that an agency is not required to publish a notice of proposed rulemaking in the FEDERAL REGISTER and solicit public comments when the agency has good cause to find that doing so would be “impracticable, unnecessary, or contrary to the public interest.” 5 USC 553(b)(3). The Department has determined that publishing a separate notice of proposed rulemaking for this technical amendment to 20 CFR § 725.413 is unnecessary. The information collection requirements whose approval this technical amendment announces were previously published in the April 29, 2015, notice of proposed rulemaking. 80 FR 23749. The Department invited public comment on both the substance of the regulatory revisions and the information collection burden they may impose. Id. OMB approved this information collection after consideration of the comments received. Thus, publishing an additional notice of proposed rulemaking for this collection would be duplicative and is unnecessary.

Section 553(d) of the APA, 5 U.S.C. 553(d), provides that substantive rules should take effect not less than 30 days after the date they are published in the FEDERAL REGISTER unless “otherwise provided by the agency for good cause found[.]” 5 U.S.C. 553(d)(3). This technical amendment does not change the substance of § 725.413 and instead merely confirms that OMB has approved the information collection contained in that regulation. For this reason, the Department finds good cause to make this technical amendment effective on the same date as the final rule, May 26, 2016. 81 FR 24465.

Regulatory Flexibility Act

This rule is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because it is not subject to the APA’s proposed rulemaking requirements.

Unfunded Mandates Reform Act

This rule is not subject to sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA, 2 U.S.C. 1501 et seq.) because it is not subject to the APA’s proposed rulemaking requirements. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate as described in sections 203 and 204 of the UMRA.

Paperwork Reduction Act

This rule announces OMB’s approval of the information collection contained in the final rule published on April 26, 2016, at 81 FR 24464. It does not impose any new information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Executive Order 12866

This rule is not a “significant regulatory action” and is therefore not subject to review by OMB under Executive Order 12866 (58 FR 51735).

Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 (64 FR 43255) regarding federalism, and has determined that it does not have “federalism implications.” The rule will not “have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform (61 FR 4729), to minimize litigation, eliminate ambiguity, and reduce burden.

List of Subjects in 20 CFR Part 725

Administrative practice and procedure, Black lung benefits, Claims, Coal miners’ entitlement to benefits, Health care, Reporting and recordkeeping requirements, Survivors’ entitlement to benefits, Total disability due to pneumoconiosis, Workers’ compensation.

For the reasons set forth in the preamble, the Department of Labor amends 20 CFR part 725 as follows:

**PART 725—CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE
FEDERAL MINE SAFETY AND HEALTH ACT, AS AMENDED**

1. The authority citation for part 725 continues to read as follows:

Authority: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174; 30 U.S.C. 901 et seq., 902(f), 934, 936; 33 U.S.C. 901 et seq.; 42 U.S.C. 405; Secretary's Order 10-2009, 74 FR 58834.

2. Add a parenthetical statement to § 725.413 to read as follows:

§725.413 Disclosure of medical information.

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(The Office of Management and Budget has approved the information collection contained in this section and assigned control number 1240-0054 with an expiration date of May 31, 2019.)

Signed at Washington, DC, this 12th day of May, 2016

Leonard J. Howie, III,

Director, Office of Workers' Compensation Programs

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